

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.,

Plaintiff,

-vs-

SAP AMERICA, INC., et al.,

Defendant.

: CASE NO. 1:08 CV 02755

: ORDER

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This Court, having reviewed Hodell's and SAP's deposition designations for Geoff Ashley and the parties' respective objections thereto, resolves those objections as follows.

I. SAP'S OBJECTIONS TO HODELL'S DEPOSITION DESIGNATIONS OF TRIAL TESTIMONY OF GEOFF ASHLEY

Testimony Designated by Hodell	SAP's Objections to Hodell's Designated Testimony
4:1-5	<ul style="list-style-type: none"> • No objection
27:23-36:20	<ul style="list-style-type: none"> • Lack of foundation and lack of personal knowledge (Rule 602) as witness was not involved in the Hodell sales process (which he explains at pages 9-12, 96, 108, 239-40) • Also lack of relevance (Rule 402) as witness explains (notwithstanding Hodell's suggestions to the contrary) that he is talking about after the Hodell sale • Also there is a danger of confusion and unfair prejudice and misleading the jury (Rule 403) as witness is not referring to the time period prior to the Hodell deal, and in any event, the witness should not be testifying as a supplemental juror and providing his <i>personal opinion</i> <p style="text-align: right;"><i>Sustained</i></p>
37:24-53:24	<ul style="list-style-type: none"> • Lack of personal knowledge and lack of foundation (Rule 602) as witness was not involved in sales process and admits that he had no technical role and was never involved with analyzing Hodell's needs during the sales cycle and much of this testimony (especially at pages 38-40) is about what the witness thinks someone else's words might mean • Also lack of relevance (Rule 403) as witness explains the "primetime" reference was a general reference to the evolution of all software (see pages 43-44) • Also there is a danger of confusion and unfair prejudice and misleading the jury (Rule 403) as witness is not referring to the Hodell deal, and in any event, the witness should not be testifying as a supplemental juror and providing his <i>personal opinion</i> • No objection to 46:25-53:24 <p style="text-align: right;"><i>Sustained</i></p>
56:16-25	<ul style="list-style-type: none"> • No objection
82:16-25	<ul style="list-style-type: none"> • No objection

83:21-22	<ul style="list-style-type: none"> No objection
97:1-98:21	<ul style="list-style-type: none"> No objection
100:12-101:3	<ul style="list-style-type: none"> No objection
105:23-107:10	<ul style="list-style-type: none"> SAP objects to 107:2-10; see above at 37:24-53:24 <i>Sustained</i>
108:7-109:22	<ul style="list-style-type: none"> No objection
110:18-111:14	<ul style="list-style-type: none"> No objection
112:24-113:12	<ul style="list-style-type: none"> No objection
114:10-115:17	<ul style="list-style-type: none"> No objection
116:2-116:12	<ul style="list-style-type: none"> No objection
116:22-118:5	<ul style="list-style-type: none"> No objection
118:15-119:15	<ul style="list-style-type: none"> No objection
124:9-125:24	<ul style="list-style-type: none"> Improper hypothetical question; argumentative Also, this testimony is out of context and inconsistent with the witness' testimony in the pages above <i>Sustained</i>
133:3-7	<ul style="list-style-type: none"> No objection
133:13-137:3	<ul style="list-style-type: none"> No objection
138:4-19	<ul style="list-style-type: none"> Lack of relevance (Rule 402); lack of personal knowledge (Rule 602); witness is testifying about something someone else wrote <i>Sustained</i>

141:5-143:25	<ul style="list-style-type: none"> • No objection
145:19-146:3	<ul style="list-style-type: none"> • No objection
149:12-24	<ul style="list-style-type: none"> • No objection
153:9-23	<ul style="list-style-type: none"> • Witness admits that he is not technically qualified to offer this opinion (see pages 6-9 where witness explains that he has 30 years of sales experience but only two years of experience as an MIS director in the early 1990's and page 10 where witness explains that he had no technical role on the Hodell project) <i>Sustained</i>
153:24-154:7	<ul style="list-style-type: none"> • No objection
154:11-166:21	<ul style="list-style-type: none"> • No objection to 154:11-156:7 • SAP objects to 156:8- 158:10; lack of foundation and personal knowledge (Rule 602); witness is testifying about what someone else might mean in a writing addressed to yet a third person; witness is also making assumptions and is admittedly guessing • No objection to 158:11-166:21 <i>Sustained</i>
171:16-173:16	<ul style="list-style-type: none"> • SAP objects to 171:16-173:8; lack of foundation and lack of personal knowledge (Rule 602) • No objection to 173:9-16 <i>Sustained</i>
180:22-182:6	<ul style="list-style-type: none"> • No objection to 180:22-181:20 • SAP objects to 181:21-182:6; argumentative and calls for witness' personal opinion; witness is also asked about what others may have done <i>Sustained</i>
190:13-195:19	<ul style="list-style-type: none"> • No objection
205:24-206:2	<ul style="list-style-type: none"> • No objection
206:25	<ul style="list-style-type: none"> • No objection

207:11-20	<ul style="list-style-type: none">• No objection
218:5-223:16	<ul style="list-style-type: none">• No objection
223:21-228:19	<ul style="list-style-type: none">• No objection
234:15-235:13	<ul style="list-style-type: none">• No objection
239:25-240:8	<ul style="list-style-type: none">• No objection

Lesley Wells
US District Judge
NDOH
2/20/15